

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII

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901 North 5th Street

Kansas City, Kansas 66101

ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

In the Matter of:

Bertch Cabinet Mfg., Inc.
1251 12th Street
Jesup, IA 50648

) Docket No. CAA-07-2003-0031
) CLEAN AIR ACT
) 42 U.S.C. § 7401 et seq.

ADMINISTRATIVE COMPLIANCE ORDER

The United States Environmental Protection Agency (EPA) has determined that Bertch Cabinet Mfg., Inc. - Legacy Division (hereafter Bertch) is in violation of General Condition G5. Semi-Annual Monitoring Report, of its Iowa Department of Natural Resources (IDNR) Title V Operating Permit 01-TV-003, for failing to timely file the above required report for the operating period of January 1, 2002, to June 30, 2002.

Pursuant to Section 113(a)(3)(B) of the Clean Air Act (the Act), 42 U.S.C. § 7413 (a)(3)(B), as amended, Bertch is hereby ordered to comply with General Condition G5. Semi-Annual Monitoring Report, of its IDNR Title V Operating Permit 01-TV-003 beginning with the next required submittal date of March 31, 2003. This order is based on the finding that the Semi-Annual Monitoring report for the period January 1, 2002, through June 30, 2002, was due to the IDNR on September 30, 2002, but was not received until October 21, 2002, as documented in a Notice of Violation (NOV) issued by the IDNR to Bertch on October 22, 2002. This violation represents the second violation of this type for Bertch. A NOV was also issued to Bertch on September 30, 2001, for the same violation, for the period January 1, 2001 through June 30, 2001.

Section 113(a)(3)(B) of the Act grants EPA the authority to issue an Order to Comply to any person found in violation of Subchapter V of the Act and the regulations promulgated pursuant thereto.

Failure to comply with any of the provisions of this Order may result in an enforcement action under Section 113 of the Act, 42 U.S.C. § 7413. Under Section 113(a) of the Act, the Administrator is authorized to address such a violation as follows:

- a. Issue an administrative penalty Order assessing a civil penalty not to exceed \$27,500 per day of violation;
- b. Bring a civil action for permanent or temporary injunction, or to recover a penalty not to exceed \$27,500 per day of violation, or both; or
- c. Request the Attorney General to commence a criminal action pursuant to Section 113(c) of the Act.

Issuance of this Order does not preclude the IDNR or EPA from assessing penalties or taking any other action authorized under the Act. This Order does not affect the obligation of Bertch to comply with all federal, state and local statutes, regulations and permits.

This Order shall become effective immediately upon receipt unless, within five (5) business days of receipt hereof, Bertch submits a written request for a conference with EPA. In such event, the effective date of the Order shall be extended until after the date of such conference to a time to be established by EPA. To request such a conference, contact Mr. Henry F. Rompage, Office of Regional Counsel, EPA Region VII, 901 North 5th Street, Kansas City, Kansas 66101, telephone (913) 551-7280.

All information and documents submitted by Bertch to EPA pursuant to this Order shall be subject to public inspection unless identified as confidential in accordance with the requirements of 40 C.F.R. Part 2. Information and documents so identified will be disclosed only in accordance with the provisions of 40 C.F.R. Part 2. You should read the regulation at 40 C.F.R. Part 2, Subpart B, carefully before asserting a business confidentiality claim, since certain categories of information are not properly subject to such a claim.

12/2/02
Date

William A. Spratlin
William A. Spratlin, Director
Air, RCRA, and Toxics Division